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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,092	06/27/2001	Peter R. Badovinatz	POU920010008US1	4426
7590	12/17/2004			EXAMINER
Blanche E. Schiller, Esq. HESLIN & ROTHENBEG, P.C. 5 Columbia Circle Albany, NY 12203			OSMAN, RAMY M	
			ART UNIT	PAPER NUMBER
			2157	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/893,092	BADOVINATZ ET AL. <i>[Signature]</i>	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ramy M Osman	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for R plly

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 27 June 2001.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-79 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3,7-16,21-30,34-43,48-60,64-73,78 and 79 is/are rejected.  
 7) Claim(s) 4-6,17-20,31-33,44-47,61-63 and 74-77 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 27 June 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3,16,30,43,60 and 73 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Lines 3-4 of the claim states "whether said node is to be...". The term 'said node' is unclear as to which node is being referred to. It is not understood whether what is meant is the 'reachable node' or the 'each node of one or more nodes'.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-3,7-16,21-30,34-43,48-60,64-73,78 and 79 rejected under 35 U.S.C. 102(b) as being anticipated by Chan et al (US Patent No 5,303,235).**

5. In reference to claims 1,28,55 and 58, Chan teaches a method, system and program of instructions for providing a group reachable nodes of a communications environment, said communications environment including a plurality of networks, and said method comprising:

dynamically determining a group of reachable nodes of said communications environment, said group of reachable nodes including one or more nodes of the communications environment that can communicate with one another via a same network of the plurality networks (column 3 lines 50-67 and column 4 lines 35-67, Chan discloses determining reachable network elements that can communicate over a network); and

making available one or more nodes of the communications environment an indication of the group of reachable nodes (column 3 lines 57-63 and column 5 lines 25-50, Chan discloses providing an indication of reachable network elements).

6. In reference to claims 2,29 and 59, Chan teaches the method, system and program of instructions of claims 1,28 and 58 respectively, wherein said group of reachable nodes comprises a largest set of reachable nodes that can communicate with one another via the same network (column 1 lines 35-55).

7. In reference to claims 3,30 and 60, Chan teaches the method, system and program of instructions of claims 1,28 and 58 respectively, wherein said dynamically determining comprises ascertaining, by each node of one more nodes of said communications environment, whether said node is be a member said group (column 4 lines 5-11 & 48-65, Chan discloses ascertaining a newly reachable network element).

8. In reference to claims 7,34 and 64, Chan teaches the method, system and program of instructions of claims 3,30 and 60 respectively, wherein the one or more ascertaining nodes includes one or more nodes notified of a prespecified event (column 4 lines 5-11 & 48-65, Chan discloses nodes being notified via an indication).

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9. In reference to claims 8,35 and 65, Chan teaches the method, system and program of instructions of claims 7,34 and 64 respectively, wherein said prespecified event comprises a change in membership network group of said communications environment (column 4 lines 5-11 & 48-65, Chan discloses a change in reachable status).

10. In reference to claims 9,36 and 66, Chan teaches the method, system and program of instructions of claims 1,28 and 58 respectively, wherein said making available the indication the group of reachable nodes comprises providing a globally consistent view of the group of reachable nodes to one or more nodes of said communications environment (column 5 lines 24-60).

11. In reference to claims 10,37 and 67, Chan teaches the method, system and program of instructions of claims 9,36 and 66 respectively, wherein the one or more nodes provided the globally consistent view comprises one or more nodes that subscribe to one or more changes associated with the group of reachable nodes (column 4 lines 35-67 and column 5 lines 24-60).

12. In reference to claims 11,38 and 68, Chan teaches the method, system and program of instructions of claims 1,28 and 58 respectively, wherein said dynamically determining is performed in response to a predefined event (column 4 lines 5-11 & 48-65).

13. In reference to claims 12,39 and 69, Chan teaches the method, system and program of instructions of claims 11,38 and 68 respectively, wherein said predefined event includes a change in membership of a network group of said communications environment (column 4 lines 5-11 & 48-65).

14. In reference to claims 13,40 and 70, Chan teaches the method, system and program of instructions of claims 12,39 and 69 respectively, wherein said change in membership of said

network group is in response to a change in status of an adapter associated with said network group (column 3 lines 1-16 and column 4 lines 5-11 & 48-65).

15. In reference to claims 14,41,56 and 71, Chan teaches a method, system and program of instructions for determining a group of reachable nodes of a communications environment, said communications environment including a plurality of nodes, wherein each node of at least a subset of the plurality of nodes is coupled to a plurality of networks, said method comprising:

detecting a status change of a network adapter of a network of said plurality of networks (column 1 lines 35-55 and column 3 lines 1-17);

performing an action, in response to the status change, that affects a network group associated with the network (column 3 line 53 – column 4 line 18); and

determining, in response to affecting the network group, membership in a group of reachable nodes (column 3 lines 57-63).

16. In reference to claims 15,42 and 72, Chan teaches the method, system and program of instructions of claims 14, 41 and 71 respectively, wherein said performing an action comprises having a process of node coupled to the network adapter with the status change join or leave the network group (column 1 lines 35-55 and column 3 lines 1-17).

17. In reference to claims 16,43 and 73, Chan teaches the method, system and program of instructions of claims 14, 41 and 71 respectively, wherein said determining comprises ascertaining, by each node of one or more nodes of said communications environment, whether said node is to be a member of said group (column 4 lines 35-65).

18. In reference to claims 21,48 and 78, Chan teaches the method, system and program of instructions of claims 14, 41 and 71 respectively, wherein the group of reachable nodes comprises a largest set of reachable nodes that can communicate with one another via a same network (column 4 lines 35-67).

19. In reference to claims 22,49 and 79, Chan teaches the method, system and program of instructions of claims 14, 41 and 71 respectively, further comprising providing to one or more nodes of said communications environment a globally consistent view of said group of reachable nodes (column 5 lines 24-60).

20. In reference to claims 23,50 and 57, Chan teaches a method and system for providing a desired group nodes of a communications environment, said communications environment comprising a plurality of nodes, wherein each node of at least a subset of said plurality of nodes is coupled to a plurality of networks, and wherein said method comprises:

determining a group of one or more nodes of said communications environment, said group representing a network of said plurality of networks having a largest number of nodes that can communicate with one another via the network relative to one or more other networks of said plurality of networks (column 3 lines 50-67 and column 4 lines 35-67); and

providing a globally consistent view of said group (column 5 lines 24-60).

21. In reference to claims 24 and 51, Chan teaches the method and system of claims 23 and 50 respectively, wherein said providing comprises providing said globally consistent view to one or more nodes of said communications environment indicating a desire to be notified of one or more changes to said group (column 5 lines 24-60).

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22. In reference to claims 25 and 52, Chan teaches the method and system of claims 23 and

50 respectively, wherein said determining is performed in response to a predefined event

(column 4 lines 5-11 & 48-65).

23. In reference to claims 26 and 53, Chan teaches the method and system of claims 25 and

52 respectively, wherein said predefined event includes a change in membership of a network

group of said communications environment (column 4 lines 5-11 & 48-65).

24. In reference to claims 27 and 54, Chan teaches the method and system of claims 26 and

53 respectively, wherein said change in membership of said network group is in response to a

change in status of an adapter associated with said network group (column 1 lines 35-55 and

column 3 lines 1-17).

***Allowable Subject Matter***

25. Claims 4-6,17-20,31-33,44-47,61-63 and 74-77 objected to as being dependent upon a

rejected base claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims.

26. The following is a statement of reasons for the indication of allowable subject matter:

The concept of grouping a set of nodes from a plurality of networks, based on the active status of the nodes, is considered to be novel features of the invention which is not found in the cited prior art made of reference. This concept is reflected particularly in these claims, and is found in the following limitations:

“wherein said ascertaining comprises:

determining a network of said plurality of networks having a largest set of nodes that can communicate with one another via that network; and

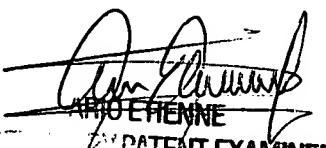
determining a status of a component associated with the network determined to have a largest set of nodes, wherein the ascertaining of whether the node is to be a member of the group is based at least in part on the status.”

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO  
December 8, 2004

  
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